

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA  
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER	<input type="checkbox"/>	DATE	<u><b>August 07, 2019</b></u>
MOTOR CARRIER MATTER	<input type="checkbox"/>	DOCKET NO.	<u><b>2019-184-E/2019-185-E 2019-186-E</b></u>
UTILITIES MATTER	<input checked="" type="checkbox"/>	ORDER NO.	<u><b>2019-555</b></u>

**THIS DIRECTIVE SHALL SERVE AS THE COMMISSION'S ORDER ON THIS ISSUE.**

**SUBJECT:**

[DOCKET NO. 2019-184-E](#) - South Carolina Energy Freedom Act (H.3659) Proceeding to Establish Dominion Energy South Carolina, Incorporated's Standard Offer, Avoided Cost Methodologies, Form Contract Power Purchase Agreements, Commitment to Sell Forms, and Any Other Terms or Conditions Necessary (Includes Small Power Producers as Defined in 16 United States Code 796, as Amended) - S.C. Code Ann. Section 58-41-20(A);

[DOCKET NO. 2019-185-E](#) - South Carolina Energy Freedom Act (H.3659) Proceeding to Establish Duke Energy Carolinas, LLC's Standard Offer, Avoided Cost Methodologies, Form Contract Power Purchase Agreements, Commitment to Sell Forms, and Any Other Terms or Conditions Necessary (Includes Small Power Producers as Defined in 16 United States Code 796, as Amended) - S.C. Code Ann. Section 58-41-20(A);

-and-

[DOCKET NO. 2019-186-E](#) - South Carolina Energy Freedom Act (H.3659) Proceeding to Establish Duke Energy Progress, LLC's Standard Offer, Avoided Cost Methodologies, Form Contract Power Purchase Agreements, Commitment to Sell Forms, and Any Other Terms or Conditions Necessary (Includes Small Power Producers as Defined in 16 United States Code 796, as Amended) - Staff Presents for Commission Consideration Commissioner Williams' Request for Further Discussion Regarding Future Proceedings in the Above-Referenced Dockets.

**COMMISSION ACTION:**

Mr. Chairman, in passing the Energy Freedom Act, our legislature called upon this Commission to address the future of renewable energy in South Carolina. With great power comes great responsibility and we have the responsibility to promote a spirit of transparency and fundamental fairness to all parties, as we work through this new law. Some parties have asked for a technical conference to discuss avoided cost methodology, but the Commission has been advised that such a conference may violate the rules against ex parte communication. The Commission has been further advised that there are several alternatives to a technical conference for the parties. Those alternatives include allowable ex parte communications, prehearing conferences, and prehearing briefs.

For the public record, I want to be clear that any party wanting to present to the Commission may do so pursuant to S.C. Code Annotated Section 58-3-260, regarding communications with the Commission. For instance, the parties may avail themselves of allowable communications under this section, including subsection (C)(6)(a). In addition, the parties may request, or the Commission may later require, prehearing conferences and prehearing briefs. As mentioned above, the Commission's goal is to promote transparency and fairness to all parties as the Commission seeks to fulfill the General Assembly's intent for the South Carolina Energy Freedom Act.

Now, I think all parties involved know most of that information, or they should, which makes me wonder why would some parties still want a technical conference? I wonder whether or not there's information that we would receive in a technical conference that would be hard to communicate through

the other methods of allowable communication that I've just outlined. The short answer is: I don't know. What I do know is that this law, the South Carolina Energy Freedom Act, is brand new. It changes the way that we're going to do business when it comes to energy in South Carolina. And that may lead me to believe that we may have to change the way we do business as a Commission.

To that end, I move, Mr. Chairman, that parties seeking a technical conference submit that request to the Commission in writing with the schedule and an agenda for how the technical conference should occur. We have no procedure on the books for a technical conference. This is uncharted territory for us. If a party feels that the allowable communications that are presented in our rules and regulations are not suitable to get their point across, based on the fact that the technical conference could do that, I think it's appropriate that we pursue that course of action.

Now, I understand there are risks, and the parties surely understand there are risks. We have to maintain the rules that we have, in terms of what can be said in any proceeding before the Commission, especially a technical conference, because it's not a hearing. But at the same time, I'm willing to try to do what's necessary to make sure we make the right decision on this matter.

Any such conference does need to comply with the State law that governs how we can communicate and how parties can communicate with the Commission and, to the extent that it may help facilitate some sort of briefing or conference that the parties provide notice and discuss any agenda or mechanism for that with other parties and with the Staff to make sure that all parties are heard in a technical conference, as well as setting forth the ground rules, or at least some sort of agenda, rules, to allow the parties to present their positions, and stay within the law governing the briefing, ex parte briefings, and other matters. Further, matters that might be presented in an educational briefing, educational or technical workshop are not matters that are in the record before the Commission for decision purposes, and parties would have to ensure that any of that information they might want in the record would have to be put forth in a hearing record.

So, the parties and Staff are to confer, to make sure that we have a good roadmap to facilitate any such briefing, to protect all parties and the Commission, the Commission Staff, because none of us want to inadvertently violate any kind of ex parte rules or take up matters that are not appropriate for a technical type conference.

If the parties believe that they can get their point across through an allowable ex parte communication, which is what the Commission normally does, then that's fine, as well. But I do not want it to be said that this Commission is conducting business as usual and preventing opportunities for parties to come and present information to the Commission so we can make the best decision possible as we move forward in these dockets.

Further, to make this process easily available to all parties in these dockets, I move that, upon the request of a party, we waive transcript costs for allowable ex parte briefings related to these dockets and offer to arrange video conferencing for any out-of-state witnesses at such briefings.

So moved, Mr. Chairman.

PRESIDING: Randall

SESSION: Regular

TIME: 2:00 p.m.

	MOTION	YES	NO	OTHER
BELSER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
ERVIN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
RANDALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WHITFIELD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

via telephone

WILLIAMS



via telephone

(SEAL)

RECORDED BY: J. Schmieding

